Office of the
Ohio Consumers' Counsel

Robert S. Tongren
Consumers' Counsel

May 15, 1996

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-98, Part 1

Dear Secretary:

Enclosed please find the original and sixteen (16) copies of the Office of the Ohio Consumers' Counsel's Initial Comments to be filed in the above referenced proceeding.

Please date-stamp and return the additional copy in the pre-addressed, postage prepaid envelope to acknowledge receipt.

Sincerely,

David C. Bergmann
Assistant Consumers' Counsel

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Enclosure

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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	

INITIAL COMMENTS OF THE OFFICE OF THE OHIO CONSUMERS' COUNSEL (Part 1)

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TABLE OF CONTENTS

PAGE

TABLE OF CONTENTS - cont.

PAGE

TABLE OF CONTENTS - cont.

PAGE

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98

SUMMARY OF INITIAL COMMENTS OF THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

The details of the implementation of Sections 251 and 252 of the Telecommunications Act of 1996 (the 1996 Act) are crucial to the development of effective competition in the local exchange service market. These provisions, involving interconnection of networks, unbundling of incumbent LECs' networks, and resale of LECs' services (Sec. 251), and processes and standards for judging the terms, conditions, and pricing of interconnection, unbundling, and resale (Sec. 252), deal with the nuts and bolts of local exchange competition.

The Office of the Ohio Consumers' Counsel (OCC) offers its comments on these core issues. In so doing, OCC remains mindful of the necessary balance between federal and state authority mandated by law and sound public policy. To that end, OCC recommends that the Federal Communications Commission (Commission) establish general rules, with leeway given to the states to provide for differing circumstances and to experiment with various means of addressing the numerous problems that will arise.

OCC also recognizes that the different areas of the statute to be covered by the Commission's rules require somewhat different approaches. For instance, on interconnection technical standards, OCC recommends that the Commission establish minimum levels, uniform throughout the country, for the technical requirements of interconnection. This can be done while allowing interconnectors and state commissions latitude in adapting arrangements to optimize network configurations.

On network unbundling, OCC also recommends that the Commission establish a minimum set of network elements which all incumbent local exchange carriers (ILECs) must offer. States must be free to require further unbundling; they must also be free to impose unbundling requirements on facilities-based new carriers.

It is in the area of setting prices for interconnection, unbundled network elements, and service resale that the Commission's authority is most realistically limited to establishing general principles. The statute requires prices for interconnection and network elements to be "based on costs"; further, the prices "may include a reasonable profit." This clearly gives state commissions, who are designated by the 1996 Act as being responsible for judging whether such prices are just, reasonable and nondiscriminatory, considerable latitude in setting those prices.

Among the general principles OCC recommends is that prices be required to exceed long run service incremental cost (LRSIC) This will ensure that all services, all providers, and all consumers make contributions to the joint and common costs of the incumbents' local network. On the other hand, prices must not exceed the incumbents'

embedded (historical) costs. This will ensure that the contribution is not excessive. In between these extremes, the state commissions will have the responsibility of setting rates.

On the resale side, OCC notes that the specific terms of the 1996 Act require that wholesale rates be above incremental costs, contrary to some parties' arguments. OCC addresses the Commission's review of the nature of restrictions on resale.

Further, OCC agrees with the Commission that there is a conflict within the Act between the principles on pricing of unbundled network elements and wholesale pricing of the incumbent's services. It may be that recombining of unbundled services may give a new carrier a better price than the wholesale rate for the bundled service, or vice versa. This difference does not require the adoption of an imputation test. It certainly does not require increases in retail rates to eliminate the conflict

Finally, OCC supports the use of mutual traffic exchange (bill and keep) as an interim measure for compensation for termination of local traffic on carriers' networks. After one year, mutual traffic exchange should continue where traffic is in balance. Where traffic is out of balance, the carrier originating the excess should provide monetary compensation to the terminating carrier for the amount of the imbalance only.

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INITIAL COMMENTS OF THE OFFICE OF THE OHIO CONSUMERS' COUNSEL (Part 1)

INTRODUCTION

The Office of the Ohio Consumers' Counsel (OCC) is pleased to provide its comments in this docket on behalf of Ohio's residential telecommunications consumers. Ohio Rev. Code Chapter 4911. As the Federal Communications Commission (the Commission) notes, this is "one of a number of interrelated proceedings designed to advance competition, to reduce regulation in all telecommunications markets and at the same time to advance and preserve universal service to all Americans." Notice of Proposed Rulemaking (April 19, 1996) ("NPRM") at ¶ 3.

This rulemaking deals with many aspects of Secs. 251 and 252 of the Telecommunications Act of 1996 (1996 Act).[1] These sections involve the nuts and bolts of

[1] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56. In these comments, OCC cites only to the sections of Title 47 of the United States Code at which the language of the 1996 Act will be codified.

establishing local exchange competition in this country: interconnection of networks, unbundling of network elements, and resale of incumbent local exchange carriers' (ILECs') services. Adoption of even-handed, flexible regulations by this Commission is crucial to encouraging the purposes of the Act.

These comments follow the outline of the NPRM. All headings are included, even where OCC has no immediate comment on that topic.[2]

COMMENTS

II. PROVISIONS OF SECTION 251

II.A. Scope of the Commission's Regulations (Paragraphs 25-41)

¶¶ 25-41 Once again the issue of federal preemption of states' authority will be hotly debated. The genesis for the current debate is how the Commission will implement the provisions of the 1996 Act. The positions that the stakeholders will advocate are fairly well known. State public utilities commissions will oppose particular federal preemption actions. The incumbent local exchange carriers (ILECs) will probably support the states since they have greater impact at the local level and they want to maintain that control. The potential competitors or new entrants will support the proposal of the Commission to adopt explicit national rules. Such rules would attempt to limit the ability of ILECs to "game the system" whether by stalling on interconnection negotiations or making allegedly

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[2] The NPRM at ¶ 290 provides for separate filing dates for comments and reply comments on dialing parity (NPRM section II.C.3.), number administration (III.E.), notice of technical changes (II.B.4.), and access to rights of way (II.C.4.). OCC will be filing limited comments on these areas, consistent with the Commission's schedule.

unreasonable demands. ALTS Handbook at 6 and 10. There is not a bright line between promoting competition at a national level and continuing to allow the states to function as competitive laboratories. OCC agrees with most of the Commission's assessment of the benefits of uniform national standards. NPRM ¶ 28, 31-32. However, we also echo the concerns that the NPRM raises if uniform national standards are put in place. NPRM ¶ 33.

OCC believes that a middle ground can be reached as state and federal regulators implement the Act. This middle ground would call for the Commission to establish general guiding principles for pricing and costing issues while setting more specific rules for the technical aspects of competition -- issues such as interconnection, unbundling, and collocation.

Specific rules for the competitive technical aspects are justified by the comparable configuration of most local networks in this country. It is reasonable to conclude that the network that NYNEX operates is comparable to the network that is deployed by GTE or Central Telephone. The structure of the local network begins with customer station equipment connected by loops to local switching systems. *See* R. F. Rey (Technical Editor), *Engineering and Operations in the Bell System* (1983). This configuration is the same no matter what entity deploys the facilities. Consequently, how and where a competitor interconnects with an incumbent LEC should not be significantly different wherever in the country that competitor wants to operate.

However, the underlying cost and price structure for local networks can be significantly different. Given the difficulties in determining costs, the proper allocation of those costs, and finally the pricing for recovery of those costs, it is almost impossible to expect that the FCC would be able to institute generic, specific, detailed and proper pricing and costing rules. Even if such rules could be developed, the practical problems of administering such a rate-setting process would result in a cumbersome and complicated bureaucracy. Certainly this would not achieve the intent of the Commission "to implement a pro-competitive, de-regulatory, national policy framework..." NPRM ¶ 26.

The states recognize the difficulty in arriving at proper costing and pricing methodologies:

> Opening local exchange markets to competition requires that cost-based rates be used for the protection of both the incumbent and entrants. However, even though several states are studying it, no publicly available cost studies are available for the myriad telecommunications services and network functions that exist in today's network.[3]

The Benchmark Cost Model (BCM) was developed as a possible substitute for individual cost studies.[4] The BCM, which has gained wide attention, and a certain degree of credibility, details proxy costs for the provision of basic telephone service in each Census

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[3] NARUC Staff Subcommittee on Communications, *Local Competition Work Group Summary Report* (February 1996) at 36.

[4] Benchmark Cost Model: A Joint Submission by MCI Telecommunications Corporation, NYNEX Corporation, Sprint Corporation and U S West, Inc. in CC Docket 80-286; dated September 12, 1995

Block Group within a state. On the other hand, a recent decision from the Washington Utilities and Transportation Commission indicates the quagmire that these issues can produce:

> The degree of consensus about the need to do cost studies and the need to do them on a long-run incremental basis is in stark contrast with the lack of consensus about the specifics of the cost calculations ... there is substantial disagreement about what should be done with cost studies.[5]

Logistic concerns and common sense dictate that the Commission should establish broad principles to guide states but the detailed process of determining costs and setting prices that recover those costs is best left to the states

II. B. Obligations Imposed by Section 251(c) on "Incumbent LECs" (Paragraphs 42-194)

¶ 45 OCC believes that obligations that are imposed on incumbent carriers should be placed on new entrants as well. The concept of regulatory symmetry should and can be applied to the Sec. 251 obligations. It is unfair for a new entrant to demand that incumbent carriers meet these obligations if they are unwilling to reciprocate. In our comments in the Public Utilities Commission of Ohio (PUCO) docket on generic competitive rulemaking, Case No. 95-845-TP-COI, we recommended that new entrants and incumbents, with a few exceptions, receive symmetrical regulation.

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[5] *Washington Utilities and Transportation Commission v. U.S. West Communications, Inc.*, Docket No. UT-950200, Fifteenth Supplemental Order (April 11, 1996).

There has been discussion about whether and to what extent a new entrant carrier would receive requests for unbundling and interconnection. However, if such requests are made, the new entrant carrier should be able to accommodate them. This is especially true for unbundling and interconnection. The loop is a bottleneck -- regardless of whether the provider is an incumbent LEC or a new entrant or whether the loop is copper wire or coaxial cable. The 1996 Act places an interconnection obligation on all carriers. It does not put an unbundling obligation on all carriers. However, states can impose such obligations consistent with the Act. Sec. 253(b)

II.B.1. Duty to Negotiate in Good Faith (Paragraphs 46-48)

¶ 48 This paragraph calls for comment on agreements regarding service, interconnection, or unbundled network elements that predate the 1996 Act. Sec. 252(a)(1) is very clear in requiring that any agreement negotiated before the date of the enactment of the 1996 Act be submitted to state commissions under subsection (e). OCC agrees that the terms of preexisting interconnection agreements between BOCs and independent, incumbent LECs must be made generally available pursuant to Secs. 252(a)(1), 252(e) and 252(i). NPRM at footnote 63

OCC has concerns over recent attempts by Ameritech to circumvent the intent of this statutory language. Ameritech has notified the carriers with which it has EAS arrangements of its intent to withdraw from such agreements. According to trade publications, the PUCO will not allow Ameritech to unilaterally terminate current EAS compensation arrangements with independents. OCC agrees with this position and will

work with the PUCO to protect the current EAS arrangements in Ohio. Ameritech's rationale for taking such action is clear -- it opposes bill and keep and wants to prevent other carriers from taking advantage of the bill and keep compensation arrangements negotiated prior to the 1996 Act.

II.B.2. Interconnection, Collocation, and Unbundled Elements (Paragraphs 49-171)

a. Interconnection (paragraphs 49-55)

¶ 50 The Commission has tentatively concluded that uniform interconnection rules would facilitate entry in multiple states by competitive providers. OCC concurs with the Commission that a multiplicity of technical and procedural requirements could hamper competitive entry by possibly threatening the "seamlessness" of the national telecommunications network and by inflating the cost to a potential market entrant. Such multiplicity should be avoided. National uniform interconnection rules would substantially obviate this problem. However, these rules must be carefully tailored to account for any unique or unusual technical features of discrete interconnections.

¶ 51 The Commission requests comment on the consequences of not establishing specific rules for interconnection The Commission asks whether the aims of the 1996 Act would be furthered by permitting state experimentation or whether permitting substantial variation would make it easier for states to respond to local or regional circumstances.

Sec. 251(c)(2) imposes the duty upon ILECs to provide interconnection at "any technically feasible point" that is "at least equal in quality" to that provided by the ILEC to

itself. Quality, and to a lesser extent, technical feasibility, are subjective concepts. Such subjectivity can be used in negotiations as a tactic for delay and obfuscation. Conversely, differing points of interconnection may produce different quality characteristics, and technical feasibility can vary as circumstances vary The absence of uniform *basic* standards will tend to produce inconsistent results among similarly situated parties. Yet overly stringent standards will retard competition by erecting possibly unnecessary constraints on the permissible range of interconnection options. In light of this tension, the Commission should allow states to experiment with various interconnection standards beyond some minimum, in order to gather the widest possible range of operational experiences.

¶ 53 The Commission requests comment on the relationship between the obligation of incumbent LECs to provide "interconnection" under Sec. 251(c)(2) and the obligation of the incumbent LEC, and all LECs, to establish reciprocal compensation arrangements for the "transport and termination" of telecommunications pursuant to Sec. 251(b)(5).

Sec. 251(c)(2) imposes a duty on ILECs to interconnect above and beyond that imposed on telecommunication carriers generally by Sec. 251(a). This duty is the cornerstone of the Act's entire functional scheme Without physical access to the incumbent's ubiquitous local exchange network, meaningful competition cannot occur. Incumbent LECs are, for all practical purposes, monopoly providers with monopoly market power. Rules promulgated pursuant to Sec 251(c) must address this market

power. Sec. 251(b)(5), on the other hand, imposes a general obligation to establish reciprocal compensation arrangements for the transport and termination of traffic applicable to all telecommunication carriers. This general obligation is necessary for the viable, ongoing operation of the competitive local exchange market. The focus of the obligations imposed by Sec. 251(b) and Sec. 251(c) are both directed at the viability of the competitive local exchange market, but Sec. 251(c) is directed specifically at the transitional problems posed by the ability of incumbent providers to thwart nascent competition. This distinction between Secs. 251(b) and (c) should influence the considerations used when the Commission promulgates its rules pursuant to these sections.

¶ 54 The Commission seeks comment on how to interpret the term "interconnection" for the purposes of Sec. 251(c)(2). OCC advocates the broader definition of "interconnection" for purposes of Sec. 251(c)(2). Experience with interconnection thus far clearly demonstrates that reciprocal compensation agreements for transport and termination are susceptible to the type of market power abuse by the incumbent LEC that is addressed by Sec. 251(c). Incumbent LECs' monopoly status gives them the power to effectively delay or defeat competitive entry. The obligations imposed by Sec. 251(c) are remedial in nature and should be broadly construed to reach as many potential barriers to entry as is reasonably possible

To the extent that transport and termination are brought within the ambit of Sec. 251(c)(2) by a broad definition of "interconnection," the pricing standard of Sec.

252(d)(1) applies. There may be circumstances where parties may not believe that it is necessary to make a request for a reciprocal compensation arrangement pursuant to Sec. 251(c)(2); Sec. 251(b)(5) and the concomitant pricing standard of Sec. 252(d)(2) may be satisfactory to these parties. The option of which standard to apply should rest with the requesting telecommunications carrier according to the language of Sec. 251(c)(2).

(1) Technically Feasible Points of Interconnection (Paragraphs 56-59)

¶ 56 The Commission requests comment on what constitutes a "technically feasible point" for the purposes of Sec. 251(c)(2)(B). "Technically feasible" should be interpreted to mean both technically possible and reasonable. No further elaboration is necessary due to the natural constraint provided by the requirements of Sec. 251(c)(2)(D). Reasonableness encompasses the risk of network harm. This is to say, if a proposed feature of interconnection jeopardizes network integrity, it is probably unreasonable. If a particular interconnection is reasonably possible, considering the integrity of the network, at a "just and reasonable" price, then the incumbent should provide that interconnection. "Feasibility" implies "possibility" tempered by cost-benefit considerations, and those cost-benefit considerations are supplied by Sec. 251(c)(2)(D).

¶ 58 The Commission requests comment on whether allowing states to designate additional technically feasible interconnection points would make it more difficult for a carrier to develop a regional or national network. By allowing states to designate additional technically feasible interconnection points, the Commission will be encouraging the flexibility that will, in turn, encourage technical innovation. Technical

feasibility is driven by technical innovation. A greater number of technically feasible interconnection points should make interconnection easier. Consequently, allowing states to designate additional technically feasible interconnection points will facilitate the development of a regional or national network, rather than make it more difficult.

OCC supports the Commission's tentative conclusion that, where a dispute arises, the incumbent LEC has the burden of demonstrating that interconnection at a particular point is technically infeasible. Experience with efforts to arrive at interconnection agreements thus far has revealed a substantial degree of reluctance on the part of incumbents to interconnect. The question of technical feasibility makes an easy point for incumbents to employ to delay or retard competitive entry. In addition to requiring the incumbent LECs to demonstrate technical infeasibility, an effective complaint procedure will be necessary to give force to the requirement.

(2) Just, Reasonable, and Nondiscriminatory Interconnection (Paragraphs 60-62)

¶ 61 The Commission requests comment on how to determine whether the terms and conditions for interconnection arrangements are just, reasonable, and nondiscriminatory. What constitutes just, reasonable and nondiscriminatory terms and conditions will be evaluated on a case-by-case basis by state or federal tribunals, beginning with state commissions. The guidelines promulgated pursuant to this Notice must have the overriding purpose of providing direction for achieving interconnection on a just, reasonable and nondiscriminatory basis. Nevertheless, the problem of the appropriate degree of specificity is applicable here, as it is with other aspects of this rulemaking.

Overly specific guidelines could create greater problems than those they solve. At this point in time, an effective complaint procedure is probably the best mechanism to ensure that specific interconnection terms and conditions are just, reasonable and nondiscriminatory.

With respect to uniform national guidelines governing installation, maintenance, and repair of the incumbent LEC's portion of the interconnection facilities, again, there is a hazard in over-specificity. Since the fundamental scheme of Secs. 251 and 252 is contract-driven, as opposed to regulation or tariff-driven, the preferable mechanism for dealing with this issue is an effective dispute resolution procedure. The parties should be encouraged to resolve these issues among themselves in the first instance. This structure should allow the Commission to keep its guidelines concerning interconnection as general as possible and avoid the risk of micromanaging the interconnection process.

With respect to incentives to encourage incumbent LECs to provide just, reasonable and non-discriminatory interconnection, the brief history of interconnection reveals that some incentive mechanism will be necessary to encourage LECs to comply with the law. Incumbent LECs need to be at risk as a consequence of non-compliance with the law. Performance standards, coupled with a damages provision or outright fines would be an example of such an incentive mechanism, but probably not the only one.

(3) Interconnection that is Equal in Quality (Paragraph 63)

¶ 63 The Commission seeks comment concerning the appropriate criteria for determining whether interconnection is "equal in quality." The telecommunications industry has extensive experience with interconnection, although under different competitive circumstances. The issue of quality does not vary with the circumstances of interconnection, although the incentives to provide a given level of quality on the part of the incumbent LEC do vary. Accordingly, the Commission should look to the existing state or federal quality standards that are used to measure current interconnection between contiguous LECs as well as those used for interexchange carrier points of presence (POPs). Whatever standards the Commission adopts, it should remain mindful of the remedial purpose of Sec. 251(c) to ensure that the market power held by the incumbent LEC is minimized.

The final determination of quality of interconnection will be determined through a dispute resolution process. Regardless of the specifics of the rules promulgated by the Commission, the success or failure of those rules will be greatly dependent on the efficacy of the dispute resolution procedures in place.

(4) Relationship Between Interconnection and Other Obligations Under the 1996 Act (Paragraphs 64-65)

¶ 64 The Commission has tentatively concluded that it has the authority to require other reasonable interconnection arrangements besides physical collocation. The Commission's tentative conclusion concerning its authority to require virtual collocation

and other forms of interconnection is reasonable. Sec. 251(c)(6) expressly contemplates instances where virtual collocation may be necessary. Therefore, it is reasonable that the Commission promulgate rules governing the provision of virtual collocation arrangements. The combination of Secs. 251(c)(2) and 251(c)(6) appears to give the requesting carrier the right to physical collocation in the absence of technical or spatial limitations. This implies that the interconnecting parties should be free to negotiate the terms of interconnection best suited to the specific circumstances. The Commission's rules guiding interconnection should be designed to accommodate various interconnection arrangements.

b. Collocation (Paragraphs 66-73)

¶¶ 67-68 The Commission has tentatively concluded that it should adopt appropriate national standards to implement the collocation requirements of the 1996 Act. Collocation arrangements are the fundamental element of interconnection, just as interconnection is the fundamental element of the competitive scheme of the Act. As noted previously, incumbent LECs have demonstrated reluctance to interconnect, in deed if not in word. Any interconnection guidelines would be fatally incomplete if provisions were not made for collocation. Predictability in these technical areas is an important element of the migration to a competitive local exchange market. The lack of general guidelines concerning collocation could have a deleterious effect on the states' ability to carry out their responsibilities under Sec. 252, although the states may also adopt their own rules. Nevertheless, the complete absence of guidelines could impair the

Commission's ability to assume the responsibilities of a state if and when the Commission is called upon to exercise its Sec. 252(e) authority. Consequently, the Commission should issue basic rules governing collocation that outline the basic technical parameters and the rights and responsibilities of the parties involved.

The Commission's rule governing collocation, as with the balance of its interconnection guidelines, should permit material variation among the states above a minimum standard in order to make it possible for states to respond to regional or local circumstances. Overly rigid guidelines will inhibit interconnection, rather than encourage effective interconnection.

¶ 69 The examples of specific state approaches to collocation requirements that the Commission cites in NPRM ¶ 69 demonstrate the need for the Commission to carefully balance the need for general, uniform guidelines with the need to accommodate regional and local circumstances.

¶ 70 The Commission seeks comment on whether one or more state collocation policies would be suitable for use as a national standard and also what consequences can be expected from requiring compliance with divergent state rules. In a perfect world, uniform standards would be preferable. Divergent state requirements will impose additional costs on new entrants with regional or national business plans; the amount of those additional costs may or may not be substantial. However, given differences in local circumstances, a one-size-fits-all rule is not desirable at this time. The states must have a

degree of autonomy in order to deal with local exigencies and to encourage innovative approaches.

¶ 71 The Commission seeks comment on specific regulations that would foster opportunities for local competition. The Commission's guidelines concerning collocation arrangements, at a minimum, must specify that the incumbent LEC bears the burden of demonstrating technical infeasibility with respect to collocation arrangements, particularly physical collocation arrangements. Also, the Commission should consider substituting the term "structure" for "building" in its definition of "premises" to ensure that the term "premises" is as inclusive as possible.

¶ 72 The Commission requests comment on whether it should establish guidelines for states to apply when determining whether physical collocation is not practical for "technical reasons or because of space limitations." The Commission must exercise extreme caution if it decides to include guidelines addressing if and when physical collocation is not practical for "technical reasons or because of space limitations." The difficulty of establishing such guidelines stems from the fact that these engineering constraints are the very problems that will require maximum flexibility to accommodate local or regional peculiarities. The better course of action is to affirmatively place the burden of demonstrating technical or physical infeasibility on the incumbent LEC and allow state Commissions to evaluate the reasonableness of the discrete situation.

All of the guidelines promulgated by the Commission pursuant to the Act must be designed to combat anticompetitive behavior This applies equally to the Commission's

guidelines concerning collocation issues. The fundamental purpose of the Act is the substitution of a system of regulated monopolies with a paradigm of competition. Combating anticompetitive behavior must be an overriding theme of the Commission rules.

c. Unbundled Network Elements (Paragraphs 74-116)

¶ 77-80 The Commission has tentatively concluded that Sec. 251 obligates it to identify network elements that incumbent LECs should unbundle and make available under subsection (c)(3). This tentative conclusion is reasonable. OCC concurs with the Commission's appraisal of the benefits to be gained from a set of minimum national requirements governing unbundling. Hence, OCC supports the Commission's tentative conclusion to adopt a minimum set of network elements that an incumbent LEC must unbundle. However, OCC has no comment with respect to what extent the Commission should establish minimum requirements governing the unbundling process beyond the identification of a minimum group of elements.

The Commission appropriately recognizes that a floor for the permissible level of unbundling is necessary and that a ceiling is not. The states should have the authority to order a greater level of unbundling. This will, in effect, create a large number of state "laboratories" to determine the true range of possibilities for network configuration. States should also be permitted (but not required) to order the unbundling of new entrants' networks.